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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 131206999-4046-01]

RIN 0648-BD85

Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery;
Control Date for Lobster Conservation Management Areas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: At the request of the Atlantic States Marine Fisheries Commission, this notice announces a control date that may be applicable, but not limited to, limiting the number of permits or traps a business entity may own in Lobster Conservation Management Area 3 or in any of the Lobster Conservation Management Areas. NMFS intends this notice to promote awareness of possible rulemaking, alert interested parties of potential eligibility criteria for future access, and discourage speculative entry into and/or investment in the American lobster fishery while the Atlantic States Marine Fisheries Commission and NMFS consider if and how participation in the American lobster fishery should be controlled.

DATES: [insert date of publication in the FEDERAL REGISTER] shall be known as the “control date” for the American lobster fishery, and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with

the Commission's objectives and applicable Federal laws. Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by

NOAA-NMFS-2013-0169 by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0169, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Lobster Control Date."

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. We may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). We accept attachments to electronic comments only in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fisheries Management Specialist,

978-281-9224, fax 978-281-9135.

SUPPLEMENTARY INFORMATION: The American Lobster Fishery Management Plan is implemented by the NMFS under the framework of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan for American Lobster (ISFMP). Through the ISFMP, the Commission adopts fishery conservation and management strategies for the American lobster resource and coordinates the efforts of the states and NMFS to implement these strategies. The ISFMP establishes seven Lobster Conservation Management Areas (Areas), from Maine to North Carolina, including state waters, which extend from the coast to 3 nautical miles (5.56 km) from shore, and the Exclusive Economic Zone (EEZ), which extends from 3-200 nautical miles (5.56-370.4 km). Within each Area, the states appoint members of the lobster industry to serve on a Lobster Conservation Management Team who advises the Commission on management programs for each Area. The lobster fishery is a year-round fishery in the United States, including the summer and fall months when the lobsters are molting. Most lobsters are taken in lobster traps, while a small amount are taken incidentally in gillnets and trawls.

With the advent of the Commission's Trap Transferability Program, members of the lobster industry, as well as the Commission, became concerned about fishing power becoming consolidated in Area 3 among relatively few permit holders who could then purchase trap allocation, increase fishing power, and reshape the fishery in a way that would be detrimental to existing and historical fishing patterns. Area 3 is the largest of all the Lobster Conservation Management Areas, occurs exclusively in the EEZ, and extends from Maine to Cape Hatteras, North Carolina. Industry and the Commission were concerned that previously latent effort could

be cheaply purchased and activated, which would create additional pressure on the lobster stock, as well as the fishing businesses currently existing in the area. Accordingly, the Commission approved Addendum XXII in October 2013, which recommended that the states and NMFS limit the number of traps that any one individual or entity may own.

On November 18, 2013, the Commission requested that NMFS publish this control date to discourage permit consolidation and speculative activation of previously unused effort or capacity in the American lobster fishery during the time that alternative management regimes to control capacity or latent effort are discussed and potentially developed and implemented. This action communicates to fishermen that participation after the control date may not be treated the same as participation before the control date. This control date may also be considered for future management decisions and rulemaking for any of the Lobster Conservation Management Areas. NMFS may also choose to take no further action to control entry or access to the American lobster fishery.

This notification establishes [insert date of publication in the FEDERAL REGISTER] as the new control date for potential use in determining historical or traditional participation in Area 3 of the American lobster fishery. Establishing a control date does not commit NMFS to develop any particular management regime or criteria for participation in these fisheries. In the future, NMFS may choose a different control date or a management program that does not make use of any control date. Any future action by NMFS will be taken pursuant to the Atlantic Coastal Fisheries Cooperative Management Act and the Magnuson-Stevens Fishery Conservation and Management Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the American lobster fishery.

This notification and control date do not impose any legal obligations, requirements, or expectation.

Authority: 16 U.S.C. 1801 et seq.; 16 U.S.C. 5101 et seq.

Dated: January 17, 2014

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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